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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,264	01/14/2002	Lynette Fouser	22058-532	4514

7590 12/17/2004

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EXAMINER

JIANG, DONG

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/047,264	Applicant(s) FOUSER ET AL.	
	Examiner Dong Jiang	Art Unit 1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16, 18, 71 and 73-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 71 is/are allowed.
- 6) ☒ Claim(s) 12, 14-16, 18, 73-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's amendment filed on 15 October 2004 is acknowledged and entered. Following the amendment, claim 18 is amended.

Currently, claims 12-16, 18, 71, 73-77 are pending and under consideration.

The finality of the rejection of the last Office action is withdrawn. New grounds of rejections are set forth below.

Objections and Rejections under 35 U.S.C. 112:

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 18 remains rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites the limitation "*the* CRF2-12" in line 1. There is insufficient antecedent basis for this limitation in the claim. Deletion of "CRF2-12" would be remedial.

Rejections Over Prior Art:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12, 14-16, 18, 73-77 are rejected under 35 U.S.C. 102(e) as being anticipated by Goddard et al., US6,740,520 B2.

Goddard discloses a human polypeptide, PRO19598, which amino acid sequence is 99.7% identical to the present SEQ ID NO:4 (see appended computer printout of sequence search results), comprises amino acids 67-98 of the present SEQ ID NO:4, is a cytokine receptor, and binds to a cytokine in IL-10 family (column 2, lines 39-43). Thus, the reference anticipates claims 12 and 73-77. Although Goddard does not mention explicitly the binding of the receptor to IL-10 or IL-22 (as in the present claims 12, 76 and 77), it would be an inherent property of the receptor as the sequence of Goddard's receptor polypeptide meet the limitation of the present claims. Further, Goddard teaches a fusion polypeptide comprising the receptor polypeptide fused to a heterologous polypeptide such as a Fc region of an immunoglobulin, and a composition comprising the receptor polypeptide and a pharmaceutically acceptable carrier (column 9, the second and the seventh paragraphs; and column 58, the third paragraph). Therefore, the reference also anticipates claims 14-16. Furthermore, Goddard teaches that therapeutic compositions are placed into a container having a sterile access port, for example, an intravenous solution bag or vial having a stopper pierceable by a hypodermic injection needle (column 58, lines 45-48). Thus, the reference anticipates claim 18.

Conclusion:

Claim 13 and 71 are allowable.

Art Unit: 1646

Advisory Information:

Any inquiry concerning this communication should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on Monday - Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


BRENDA BRUMBACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Dong Jiang, Ph.D.
Patent Examiner
AU1646
11/30/04